

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERMAINE BARNETT,	§
	§
Defendant Below-	§ No. 585, 2008
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 9506017682
Plaintiff Below-	§
Appellee.	§

Submitted: December 11, 2008

Decided: February 6, 2009

Before **BERGER, JACOBS**, and **RIDGELY**, Justices.

ORDER

This 6th day of February 2009, it appears to the Court that:

(1) On December 2, 2008, the Court received appellant's notice of appeal from a Superior Court order, docketed October 31, 2008, denying postconviction relief. Pursuant to Supreme Court Rule 6, a timely notice of appeal should have been filed on or before December 1, 2008.

(2) The Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing appellant to show cause why the appeal should not be dismissed as untimely filed.¹ Appellant filed a response to the notice to

¹Del. Supr. Ct. R. 6(a)(iii).

show cause on December 11, 2008. He asserts that he did not receive a copy of the Superior Court's order until mid-November and that he mailed his notice of appeal within eight days of receiving the trial court's order. He suggests that the processing of his mail must have been delayed because of the Thanksgiving holiday.

(3) Appellant's argument is unavailing. Time is a jurisdictional requirement.² A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period in order to be effective.³ An appellant's pro se status does not excuse a failure to comply strictly with the jurisdictional requirements of Supreme Court Rule 6.⁴ Unless the appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel, his appeal cannot be considered.⁵

(4) There is nothing in the record to reflect that appellant's failure to file a timely notice of appeal in this case is attributable to court-related personnel. Consequently, this case does not fall within the exception to the

²*Carr v. State*, 554 A.2d 778, 779 (Del.), *cert. denied*, 493 U.S. 829 (1989).

³Del. Supr. Ct. R. 10(a).

⁴*Carr v. State*, 554 A.2d at 779.

⁵*Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

general rule that mandates the timely filing of a notice of appeal. Thus, the Court concludes that the within appeal must be dismissed.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice